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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,268	02/26/2004	Bradley R. Stager	P 0555.14107	9398

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BIRDWELL & JANKE, LLP
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PORTLAND, OR 97204

EXAMINER

MILLER, BENA B

ART UNIT	PAPER NUMBER
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3725

MAIL DATE	DELIVERY MODE
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05/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/789,268	Applicant(s) STAGER, BRADLEY R.	
	Examiner Bena Miller	Art Unit 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7,9-11 and 17-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7,9-11 and 17-28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

Bena B. Miller

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-5, 7, 9-11 and 17-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Crammond (US Patent 5,485,873) or Bielagus et al (US Patent 5,937,923) or Swartwood et al (US Patent 5,979,522).

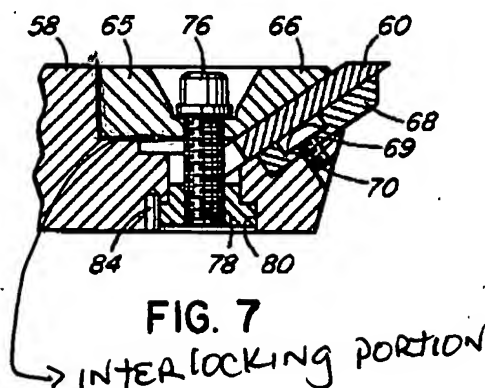
The device of Crammond or Bielagus et al or Swartwood reads on the elements of the claimed invention including a knife (60, 36 or 12, respectively), a base (58, 34 or 22, respectively), a wear shoe (68, 42 or 16, respectively), an upper clamping (66, 76 or 14, respectively), at least one bolt (70--fig. 7, 78 or 40, respectively). The Examiner takes the position that the gap is greater than the thickness of the knife and the angle is about 5 degrees. Further, the gap of the device of Crammond or Bielagus et al or Swartwood would have to be greater in order for knife to have a friction fit when inserted between the upper clamp and wearshoe.

Response to Arguments

Applicant's arguments filed 02/06/07 have been fully considered but they are not persuasive. In response to applicant's remarks that Crammond fails to teach a gap

between the upper clamping member and the wearshoe that is greater than the thickness of the knife, the applicant's attention is directed to the above rejection.

In response to applicant's remarks that Crammond fails to teach the wearshoe and base include "cooperatively interlocking portions adapted to substantially prevent movement of said base, relative to said wearshoe, in a first direction toward the knife and perpendicular to the axis of said bolt, said interlocking portions meeting so as to define an angle ϕ with respect to said first direction that is in the range 45 - 60 degrees", applicant's attention is directed to the below marked copy figure 7.



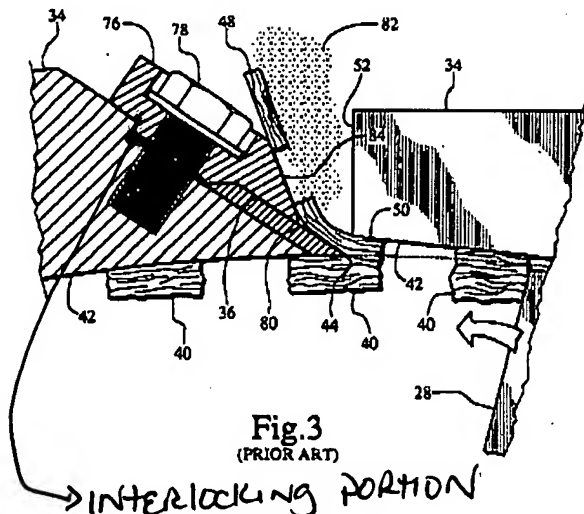
Further, in col. 5, lines 3-5 of Bielagus, member 65 is forced into contact with knife 60 and counter knife 68 via member 78 to clamp the knife package to the carrier 58. The examiner takes the position that the interlocking portion of the wearshoe and base define an angle of the specified range noted above.

In response to applicant's remarks that the Crammond fails to teach assemblies for installation between the end plates such that shoulder portions of at least two shoulder bolts extend through one of the end plates into the base, it should be noted that the claim does not positively recite the shoulder portions of at least two shoulder bolts in combination with the claimed apparatus. The examiner wishes the applicant to

note that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitation.

In response to applicant's remarks that Bielagus et al fail to teach an upper clamping member be "cantilevered" from the base, the examiner disagrees. Figure 3 shows clamp 76 supported by a projection surface of 34 in which the projection provides a cantilevered support for clamp 76. Bolt 78 is then used to force clamp 76 in contact with the knife. Therefore, the device of Bielagus et al, meet the claimed limitation. Further, in response to applicant's remarks that Bielagus et al fail to teach a gap between the upper clamping member and the wearshoe that is greater than the thickness of the knife, the applicant's attention is directed to the above rejection.

In response to applicant's remarks that Bielagus et al fail to teach the wearshoe and base include "cooperatively interlocking portions adapted to substantially prevent movement of said base, relative to said wearshoe, in a first direction toward the knife and perpendicular to the axis of said bolt, said interlocking portions meeting so as to define an angle ϕ with respect to said first direction that is in the range 45 - 60 degrees", applicant's attention is directed to the below marked copy figure 3.



In response to applicant's remarks that the Bielagus et al fail to teach assemblies for installation between the end plates such that shoulder portions of at least two shoulder bolts extend through one of the end plates into the base, it should be noted that the claim does not positively recite the shoulder portions of at least two shoulder bolts in combination with the claimed apparatus. The examiner wishes the applicant to note that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitation.

In response to applicant's remarks that Smartwood fails to teach a gap between the upper clamping member and the wearshoe that is greater than the thickness of the knife, the applicant's attention is directed to the above rejection.

In response to applicant's remarks that Smartwood fails to teach the wearshoe and base include "cooperatively interlocking portions adapted to substantially prevent movement of said base, relative to said wearshoe, in a first direction toward the knife and perpendicular to the axis of said bolt, said interlocking portions meeting so as to

define an angle ϕ with respect to said first direction that is in the range 45 - 60 degrees, the examiner agrees.

In response to applicant's remarks that the Smartwood fail to teach assemblies for installation between the end plates such that shoulder portions of at least two shoulder bolts extend through one of the end plates into the base, it should be noted that the claim does not positively recite the shoulder portions of at least two shoulder bolts in combination with the claimed apparatus. The examiner wishes the applicant to note that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitation.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

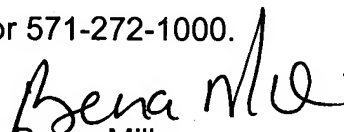
Art Unit: 3725

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 571.272.4427.

The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Bena Miller
Primary Examiner
Art Unit 3725

bbm
April 28, 2007